

STOCKTON UNIVERSITY



PROCEDURE

Procedures for Internal Complaints Alleging Discrimination in the Workplace

Procedure Administrator: Chief Officer for EEO and Compliance

Authority: *N.J.A.C.* 4A:2-1.1(d), 4A:2-1.7, 4A:2-2 and 3, 4A:7-3.1 & 3.2

Effective Date: December 16, 1999, June 3, 2005, August 20, 2007, October 6, 2010;
February 16, 2011; December 5, 2013; November 24, 2015; November 23, 2020

Index Cross-References: Policy VI-28: Policy Prohibiting Discrimination in the
Workplace

Procedure File Number: 6360

Approved By: Dr. Harvey Kesselman, President

The following procedures are in accordance with the Model Procedures developed by the New Jersey Department of Personnel, Division of EEO/AA.

1. All employees and applicants for employment should promptly report suspected violations of Policy VI-28 – the University Policy Prohibiting Discrimination in the Workplace, which replicates the New Jersey State Policy Prohibiting Discrimination in the Workplace, *N.J.A.C.* 4A:7-3.1.
2. Complaints of prohibited discrimination/harassment can be reported to either the Chief Officer for EEO and Compliance, to any supervisory employee of the University, or through the State's Hotline (833-691-0404). To facilitate the reporting of a complaint, the complainant should complete a Discrimination Complaint Processing Form (DPF-481) which can be found on the Office of Equal Opportunity and Institutional Compliance website or the New Jersey Civil Service Commission's ("NJCS") website.
3. Complaints and allegations of discrimination/harassment should be reported promptly. Delays in reporting may not only hinder a proper investigation but may also unnecessarily subject the victim to continued prohibited conduct.
4. Supervisory employees shall immediately report all allegations of prohibited discrimination/harassment to the Chief Officer for EEO and Compliance. Such a report shall include both alleged violations reported to a supervisor, and those alleged violations directly observed by the supervisor.
5. If reporting a complaint to any of the persons set forth in paragraphs 2 through 4 above presents a conflict of interest, the complaint may be filed directly with the Division of EEO/AA, P.O. Box 315, Trenton, NJ 08625. An example of such a conflict would be where the individual against whom the complaint is made is involved in the intake, investigative or decision-making process.

6. In order to facilitate a prompt, thorough, and impartial investigation, all complainants are encouraged to submit a Discrimination Complaint Processing Form (DPF-481). An investigation may be conducted whether or not the form is completed.
7. The University shall maintain a written record of the discrimination/harassment complaints received. Written records shall be maintained as confidential records to the extent practicable and appropriate. A copy of all complaints (regardless of the format in which submitted) must be submitted to the Division of EEO/AA, by the University's Chief Officer for EEO and Compliance, along with a copy of the acknowledgement letter(s) sent to the person(s) who filed the complaint and, if applicable, the complaint notification letter sent to the person(s) against whom the complaint has been filed including the basis for the complaint and whether or not an investigation will be initiated. When a complaint on its face is insufficient to determine the nature and scope of the allegations, the EEO/AA Officer shall interview the person submitting the complaint for additional information to determine whether the allegations implicate Policy VI-28.
 - a. If, after conducting the interview of a complainant, the EEO/AA Officer determines that an investigation is not warranted, a letter shall be sent to the complainant explaining the basis for the decision not to investigate. If a written complaint has not been filed, the Chief Officer for EEO and Compliance must submit to the Division of EEO/AA a brief summary of the allegations that have been made. Copies of complaints filed with the New Jersey Division on Civil Rights, the U.S. Equal Employment Opportunity Commission, or in court also must be submitted to the Division of EEO/AA.
 - b. If after conducting the interview of a complainant, the EEO/AA Officer determines that an investigation is warranted, the Chief Officer for EEO and Compliance or authorized designee will obtain information regarding the complaint, and determine if interim corrective measures are necessary to prevent continued violations of Policy VI-28. Interim corrective actions include, but are not limited to:
 - 1) Separation of parties;
 - 2) Removal of parties from the workplace; and
 - 3) Involvement of law enforcement, when appropriate, for instances involving bodily harm or serious bodily harm.
8. At the discretion of the Chief Officer for EEO and Compliance, a prompt, thorough, and impartial investigation into the alleged harassment or discrimination will take place. The complainant shall have the burden to articulate a sufficient nexus between the alleged conduct and a protected category pursuant to the State Policy.

In determining whether or not a thorough and impartial investigation is warranted, the Chief Officer for EEO and Compliance when reviewing complaints shall consider, but is not limited to considering, the following factors:

- a. The facts presented;
 - b. Whether the complainant articulated a sufficient nexus between the alleged conduct and a protected category as set forth in *N.J.A.C. 4A:7-3.1(a)*;
 - c. The time the incident(s) occurred;
 - d. The time the incident was reported; and
 - e. Whether the complainant and/or respondent is a current State employee (regardless of when the incident occurred).
9. An investigatory report will be prepared by the Chief Officer for EEO and Compliance or his or her designee when the investigation is completed. The report will include, at a minimum:
- a. A summary of the complaint;
 - b. A summary of the parties' positions;
 - c. A summary of the facts developed through the investigation; and
 - d. An analysis of the allegations and the facts.

The investigative report will be submitted to the University President or designee who will issue a final letter of determination to the parties.

10. The University President or designee will review the investigative report issued by the Chief Officer for EEO and Compliance or authorized designee, and make a determination as to whether the allegation of a violation of the University's Policy Prohibiting Discrimination in the Workplace has been substantiated. If a violation has occurred, the University President will determine the appropriate corrective measures necessary to immediately remedy the violation.
11. The University President or designee will issue a final letter of determination to both the complainant(s) and the person(s), against whom the complaint was filed, setting forth the results of the investigation and the right of appeal to the New Jersey Civil Service Commission (NJCS), as set forth in Section 12 below. To the extent possible, the privacy of all parties involved in the process shall be maintained in the final letter of determination. The Division of EEO/AA, Department of Personnel shall be furnished with a copy of the final letter of determination.
- a. The letter shall include, at a minimum:
 - 1) A brief summary of the parties' positions;
 - 2) A brief summary of the facts developed during the investigation; and
 - 3) An explanation of the determination, which shall include whether:
 - i. The allegations were either substantiated or not substantiated; and
 - ii. A violation of the University's Policy Prohibiting

Discrimination in the Workplace did or did not occur.

- b. The investigation of a complaint shall be completed and a final letter of determination shall be issued no later than 120 days after the initial intake of the complaint referred to in Section 7 above, is completed.
 - c. The time for completion of the investigation and issuance of the final letter of determination may be extended by the University President for up to 60 additional days in cases involving exceptional circumstances. The University President shall provide the Division of EEO/AA and all parties with written notice of any extension and shall include in the notice an explanation of the exceptional circumstances supporting the extension.
12. A complainant who is in the career, unclassified or senior executive service, or who is an applicant for employment, who disagrees with the determination of the University President or designee, may submit a written appeal, within twenty days of the receipt of the final letter of determination from the University President or designee, to the NJCSC, Division of Appeals and Regulatory Affairs ("DARA") Written Record Appeals Unit, P.O. Box 312, Trenton, NJ 08625-0312. The appeal shall be in writing and include all materials presented by the complainant at the University level, the final letter of determination, the reason for the appeal, and the specific relief requested.

Please be advised that there is a \$20 fee for appeals. Please include a check or money order along with the appeal, payable to NJCSC. Persons receiving public assistance and those qualifying for NJCSC Veterans Preference are exempt from this fee.

- a. Employees filing appeals which raise issues for which there is another specific appeal procedure must utilize those procedures. The University President may require any appeal, which raises issues of alleged discrimination and other issues, such as examination appeals, to be processed using the procedures set forth in *N.J.A.C. 4A:7-3/2* or a combination of procedures as the NJCSC deems appropriate. See *N.J.A.C. 4A:2-1.7*.
 - b. If an appeal under this chapter raises issues concerning the employee not receiving an advancement appointment, the NJCSC shall decide those issues in the course of its determination.
 - c. The NJCSC shall decide the appeal on a review of the written record or such other proceeding as it deems appropriate. See *N.J.A.C. 4A:2-1.1(d)*.
 - d. The appellant shall have the burden of proof in all discrimination appeals brought before the NJCAC.
13. In a case where a violation has been substantiated, and no disciplinary action recommended, the party(ies) against whom the complaint was filed may appeal the determination to the NJCSC at the address indicated in Section 12 above, within 20 days of receipt of the final letter of determination by the University President or designee.

- a. The burden of proof shall be on the appellant.
 - b. The appeal shall be in writing and include the final letter of determination, the reason for the appeal, and the specific relief requested.
14. If disciplinary action has been recommended in the final letter of determination, any party charged who is in the career service may appeal using the procedures set forth in *N.J.A.C.* 4A:2-2 and 3.
15. When an appeal of a decision on a discrimination complaint has been filed with the NJCSC, the Director of the Division of EEO/AA shall be placed on notice of the appeal and given the opportunity to submit comments to the NJCSC regardless of whether or not the complaint was initially filed directly with the Director of the Division of EEO/AA.
16. Any employee or applicant for employment can file a complaint directly with external agencies that investigate discrimination/harassment charges in addition to utilizing this internal procedure. The time frames for filing complaints with external agencies indicated below are provided for informational purposes only. An individual should contact the specific agency to obtain exact time frames for filing a complaint. The deadlines run from the date of the last incident of alleged discrimination / harassment, not from the date that the final letter of determination is issued by the University President or designee.

Complaints may be filed with the following external agencies:

Division on Civil Rights

N.J. Department of Law & Public Safety

(Within 180 days of the discriminatory act)

Central Regional Office 140 East Front Street 6th Floor,
P.O. Box 090 Trenton, NJ 08625-0090 (609) 292-4605

Northern Regional Office 31 Clinton Street, 3rd Floor
P.O. Box 46001 Newark, NJ 07102 (973) 648-2700

South Shore Regional Office

1325 Boardwalk, 1st Floor Tennessee Avenue and Boardwalk
Atlantic City, NJ 08401 (609) 441-3100

5 Executive Campus, Suite 107
Cherry Hill, NJ 08034 (856) 486-4080

United States Equal Employment Opportunity Commission (EEOC)

(Within 300 days of the discriminatory act)

National Call Center – 1 800-669-4000

Newark Area Office*

2 Gateway Center, 17th Floor

Newark, NJ 07102
(973) 645-4684

Philadelphia District Office 801 Market Street, Suite 1300**
Philadelphia, PA 19107-3127
(215) 440-2600

*Newark Area Office has jurisdiction over the State of New Jersey Counties of Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren.

**The Philadelphia District Office has jurisdiction over the state of New Jersey Counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem.

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See *N.J.A.C. 4A:7-3.2*

Review History:

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